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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION
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IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S COMPLIANCE
WITH § 271 OF THE
TELECOMMUNICATIONS ACT OF 1996.

DOCKET NO. T-00000A-97-0238

QWEST'S NOTICE OF SUPPLEMENTAL CITATION OF AUTHORITY

Qwest Corporation ("Qwest") hereby files this notice of supplemental citation of authority regarding AT&T's Motion to Reopen and Supplement the Record concerning 272 issues. AT&T filed a similar motion in Oregon. In a written order dated November 20, 2002, the Public Utility Commission of Oregon unanimously denied AT&T's motion. The Oregon order is attached. The Oregon Commission notes that the "separate subsidiary established by Qwest is not a uniquely Oregon entity and issues related to its operations and controls apply across the Qwest region."¹ It also concurred with the Washington Utilities and Transportation Commission in finding that "at this time, reopening the proceeding would be a waste of administrative resources" since this region-wide issue is currently before the FCC.²

AT&T filed essentially the same motion in all fourteen Qwest states. All thirteen of the other state commissions have denied AT&T's motion.

¹ Disposition: Motion Denied, Public Utilities Commission of Oregon, Docket No. UM 283 (November 20, 2002), p.2.

² *Id.*

RESPECTFULLY SUBMITTED this 2nd day of December 2002.

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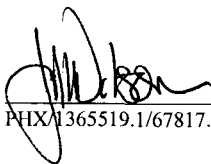
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DATED: NOV 20 2002

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 823

In the matter of an Investigation into the)
Entry of U S WEST Communications, Inc.,)
into In-Region InterLATA Services under)
Section 271 of the Telecommunications)
Act of 1996.)

DISPOSITION: MOTION DENIED

On September 27, 2002, AT&T Communications of the Pacific Northwest, Inc. and TCG Oregon (AT&T) filed a Motion to Reopen and Supplement the Record (Motion) with the Public Utility Commission of Oregon (Commission). On October 11, 2002, Qwest Corporation (Qwest) filed an opposition (Opposition) to AT&T's Motion. On October 24, 2002, Qwest filed a Notice of Supplemental Authority (Notice).

Introduction. The Final Recommendation Report of the Commission (Final Report) in this docket was issued on August 19, 2002. The purpose of the proceeding, generally, was to examine the representations, behavior and performance of Qwest and to decide whether or not to recommend to the FCC that it be granted the authority to provide in-region interLATA Services. The Commission based its recommendation upon its findings as to whether Qwest has met the competitive checklist¹ and other requirements of Section 272 of the Telecommunications Act of 1996 (the Act) which prescribe the mechanism by which Qwest may be found eligible to provide such in-region interLATA services.

Because the Final Report was a recommendation to the Federal Communications Commission (FCC) and not an action affecting the rights of any party, it was not an appealable order subject to ORS 183.480. AT&T has asked us to reopen this proceeding. Thus, the disposition of the matters herein falls into the same category.

¹ The items on the Competitive Checklist are set forth in fourteen subsections of Section 271(c)(2)(B) of the Act.

The Issue of Section 272 Compliance. In our Workshop 4, Part 2, Findings and Recommendation Report, issued June 3, 2002, we found that Qwest was in compliance with the requirements of the Act. AT&T asserts that, since the time that the Commission issued its findings on that issue, "there certainly have been significant developments....[i]n some cases [Qwest] applied its accounting policies incorrectly with respect to certain optical capacity asset sale transactions," and that Qwest's Chief Financial Officer has admitted that the competitive, wholly-owned separate subsidiary "did not comply with the requirements of GAAP...."² AT&T therefore asks that, in light of this new information, the Commission "establish a process for the filing and evaluation of Qwest's new separate subsidiary."³

In opposition to the proposal contained in the AT&T Motion, Qwest makes several arguments. First, it notes that the issue is not unique to Oregon, but is common to all fourteen states in the Qwest region and is best dealt with in a unified manner. Next it notes that Qwest has refiled its previously pending FCC 271 applications to address the issue. Finally, it asserts that such an examination is already being done by the FCC for all of the states on an expedited basis. Thus, Qwest contends, there is no purpose in having the individual states look at this question in order to make a recommendation to the FCC on a matter already under FCC scrutiny.

Discussion. The separate subsidiary established by Qwest is not a uniquely Oregon entity and issues related to its operations and controls apply across the Qwest region. We have sought throughout this proceeding to work with other jurisdictions to achieve region-wide uniformity consistent with our obligations to promote the public interest and full and fair competition within Oregon. As cited by Qwest and noted by the Washington Utilities and Transportation Commission in rejecting a similar AT&T motion

"Neither the Act nor the FCC requires that this Commission reopen the proceeding. Further, at this time, reopening the proceeding would be a waste of administrative resources, if all fourteen states in Qwest's region—or even just our state—were to consider an issue that will soon be directly before the FCC."⁴

² AT&T Motion, p. 3.

³ *Id.*, p. 4.


⁴ Qwest Opposition, p. 6, citing 44th Supplemental Order Denying AT&T's Motion to Reopen the Proceeding and Supplement the Record, Docket Nos. UT-003022, UT-003040 (September 26, 2002), par. 1. On September 30, 2002, Qwest refiled its previously withdrawn applications. The issue is therefore currently pending before the FCC.

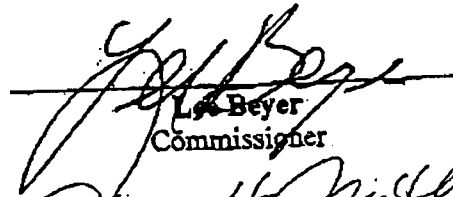
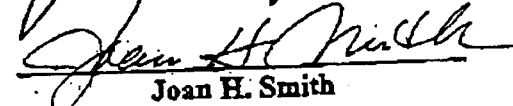
The status of this action was updated by Qwest's Notice which asserts that, as of October 24, 2002, when the Minnesota Public Utilities Commission unanimously denied AT&T's Motion, eleven of the fourteen states in which the Motion was filed have rejected it, while no state has granted the Motion. In light of the FCC's consideration of the issue and the lack of any considerations unique to the interests of the public in Oregon, we reject AT&T's request, as well.

DISPOSITION

AT&T Communications of the Pacific Northwest, Inc.'s and TCG Oregon's Motion to Reopen and Supplement the Record is DENIED.

Dated NOV 20 2002


Roy Hemmingway
Chairman


Lee Beyer
Commissioner

Joan H. Smith
Commissioner

